

THE INVENTOR'S

POCKET COMPANION,

CONTAINING

The Canadian Patent Act of 1872, a Synopsis of the Patent Laws in all other Countries,
and giving instruction how to apply for Home and Foreign Patents; also the
Population of Canada in Provinces, and of the United States in
States, with many useful notes and comments,

BY

DONALD C. RIDOUT & CO.,

CONSULTING MECHANICAL ENGINEERS AND SOLICITORS OF PATENTS,

PROPRIETORS OF

THE CANADA PATENT AGENCY,

86 York Street, Toronto.

CANADA.

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of Agriculture

TO
INVENTORS AND MECHANICS,
THE INVENTOR'S POCKET COMPANION
IS RESPECTFULLY
DEDICATED.

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THE INVENTOR'S POCKET COMPANION.

INTRODUCTION.

IN submitting this pamphlet to Inventors, we may be permitted to say, by way of introduction, a few words in reference to ourselves. We have had practical education as machinists in the workshop, theoretical instruction in mechanics and the sciences pertaining thereto, and have had ten years experience as Draughtsmen and Solicitors of Patents. Our practice as Solicitors of Patents is by far the largest in Western Canada, and one of, if not the most, extensive in the Dominion.

Our social connections among the leading men, merchants and capitalists of Canada, together with our extended relations as engineers and dealers in machinery with railways and manufactories, afford to those who secure their inventions through our office opportunities for selling their patents which no other like firm in Canada can extend. We conduct applications direct with all the patent offices, except examinations and special cases, for which we have qualified and competent representatives at Ottawa, Washington, London, Paris, &c., who supervise contested and other cases when necessary.

In conclusion, it is scarcely necessary to add that all communications entrusted to us are considered in the strictest sense confidential, and that we are well and favorably known, both personally and professionally, the gentlemen we refer to by permission are sufficient guarantee, while the large and increasing practice we enjoy is complete evidence that all work entrusted to us is thoroughly and conscientiously attended to.

HOW TO INVENT.

It would be impossible for us to literally teach how to invent, for invention, like poetry, painting, and sculpture, is a gift often rising to the height of genius, but still a few simple hints may be of value, as many of our most useful and remunerative inventions have been produced by minds that lay no claim to kinship with genius. Attention, careful and thoughtful attention to what is going on in the world about one, will soon enable the observer to discover many little gaps, suggesting some small and practical improvement, which, if cheaply and effectually carried out, will fill a general want, and thus command an extensive sale. To be pecuniarily successful, an invention must supply a want, and unless immeasurably superior, be cheaper than the article it is intended to supersede, and above all things it should be simple. Simplicity in an article cheapens its cost, makes improvement on it more difficult, and tends to increase its popularity, being more easily understood and less liable to get out of order. Many people seem to think that a complicated arrangement of levers, springs and wheels denotes a true invention, and in fact the sole aim of some inventors seems to be to see how complicated and intricate a machine they can produce. A greater mistake was never

made. To attain the utmost simplicity is the true test of genius in an invention, and a prime desideratum. A knowledge of the general laws and principles of natural philosophy, chemistry, and all the sciences, is indispensable to the inventor who aims at a high position in his profession. He should also keep himself well informed on all the current improvements and inventions of the day, and be a careful observer of all things.

SMALL INVENTIONS.

Inventors who invent more for wealth than distinction should confine themselves to small inventions which remedy some defect in a contrivance already in use, or which supply a domestic or agricultural want. A new kind of toy, if well pushed, is sure to be remunerative. Small improvements in domestic furniture always command a market, and a labor-saving machine or improvements in a farm utensil can always be disposed of. But probably one of the principal reasons why small inventions are preferable in a pecuniary point of view is that they require little or no capital to introduce them, while a complicated and costly machine can only be successfully handled by parties with large means.

INVENTION AS A TRADE.

No man should devote his entire time to invention unless he possesses sufficient private means to support himself and family should his invention prove unsuccessful. Study hard at night, occupy every spare moment in working at and perfecting his invention he should, but as he values his peace of mind he must on no account give up a certainty nor relax his industry in his regular occupation till he is in such circumstances that it matters little whether he ever toils.

Inventors are often too impatient, and give up the ordinary occupation by which they gain their livelihood, with the idea that their invention will be perfected and the profits realized before the little money they have saved has been expended. It would be impossible for the most experienced and successful inventor to calculate on the many mishaps and anxious delays which nearly all inventions, even of the simplest kind, experience from the time of their conception in the brain of the inventor till they have been successfully launched and the profits realized from their sale. Hence the foolishness of allowing "the bird in the hand" to escape while depending on the two uncaught in the bush. Not only will this course make the inventor exceedingly uncomfortable in the mere matter of living, but it often effectually deprives him of the chance of ever accumulating the small amount of funds necessary to perfect the simplest invention and introduce it to the public notice.

THE OBJECT OF A PATENT LAW.

It is much to be regretted that the fundamental principle and object of issuing letters patent to secure inventions are not better understood, for were it otherwise, much of what is said and written upon the subject of their abolition would at once fall to the ground. Many are under the impression that the sole object of patents is to give to the inventor a monopoly, proving often, as they assert, only a heavy tax and drag on the public—legalizing, as it were, unscrupulous extortionists.

A patent of invention is to all intents and purposes a contract between the inventor and the public, the Government of the country representing the latter. The public agree to allow the inventor for a limited period the exclusive sale, and

all profits arising from his invention, provided he furnishes them with full drawings and description of the same, so clear and exact that at the expiration of the period mentioned, they, the public, will be enabled to manufacture and enjoy the patented article without assistance or further explanation from the inventor; the public further stipulate that the patent shall be void and the invention become common property should it at any time be found that the specification and drawings did not clearly describe and show the invention; and in the case of an improvement distinctly point out the new part from the old. Hence it will be seen that while the inventor is rewarded in proportion to the value of his invention the public can in no case lose by the issue of a patent, for the inventor's only reward is their patronage, and should the invention he produces prove of no value, the public will naturally decline to purchase, and the patentee is alone the loser. We are perfectly aware that many useless patents are sold to individuals, but they buy merely as speculators, and the patent being of no more value in their hands than in those of the inventor, they likewise find it impossible to dispose of the patented article, which, like the public, remains unsold.

WHAT IS PATENTABLE ?

A new machine.

An improvement or improvements in a machine, no matter how insignificant that improvement may be, provided it is useful. The combination of mechanical parts, although each part may be old, yet when combined produce a new combination, and hence a new machine.

The manufacture of a new substance or material by chemical or mechanical process. A new chemical composition. The improvement of an old method of manufacture.

WHAT IS NOT PATENTABLE.

An invention which has become public property in any country, although the same may be new and unknown in the country in which the patent has been applied for. An inventor must reduce his invention to practice, otherwise it is not patentable. No invention having an illicit object in view can be patented, nor is a merely scientific principle or abstract theorem patentable.

HOW TO OBTAIN PATENTS.

Some inventors attempt to do their own business, and no doubt are sometimes successful in obtaining letters patent; but, like the engine designed by a shoemaker, or the boots made by an engineer, the article thus produced is immediately recognized as home-made; and the patentee finds it impossible to dispose of his patent till it has been prepared afresh and reissued with amended claims. We are continually being consulted by inventors who have secured their own patents, and who, when employing us to prepare a reissue, acknowledge that they have been "penny wise and pound foolish," and that they now fully appreciate the old saying, "every man to his own trade." When an inventor wishes to secure a patent he should procure the assistance of an experienced Solicitor of Patents. If the firm consulted is reliable and competent, the inventor can trust his interest with them and receive such counsel in regard to the patentability of the device, and also such directions as will save him both time and trouble. In reference to our own firm, we will merely say that we conduct a patent business which is probably the largest in Canada, and number among our clients all the principal and most successful inventors of Western Canada.

Synopsis of Patent Act of 1872.

The following is a brief synopsis of the Patent Act now in force, and the reader is referred for additional information to the Appendix, where the Act is published at length.

- Sec. 6.—Any person may obtain a patent for his invention not having been then in public use in Canada for more than one year. As to Form of Patent—
Proviso: What shall not be patentable.
- Sec. 7.—As to inventions for which foreign patents have been taken out.
- Sec. 8.—Representatives of inventor may obtain the patent.
- Sec. 9.—As to patents for improvements on patented inventions. Proviso.
- Sec. 10.—As to joint application for patent.
- Sec. 11.—Declaration to be made by applicant for a patent; before whom taken. Applicant to elect a domicile in Canada.
- Sec. 12.—Particulars required in application.
- Sec. 13.—Specification of drawing; form of, and what to show.
- Sec. 14.—Commissioner may require further drawings. Drawings, how disposed of.
- Sec. 15.—Working model to be delivered to the Commissioner; or specimens of ingredients. Exception as to explosive materials.
- Sec. 16.—Contents of patents. Conditions.
- Sec. 17.—Duration of patents, and periodical extension; not exceeding fifteen years in all. Form of extension.
- Sec. 18.—Patent or extension to be examined by Minister of Justice before granted.
- Sec. 19.—In certain cases of error, &c., the Commissioner may cause a new patent to issue, on amended specification. Effect of new patent and specification.
- Sec. 20.—Patentee may disclaim anything included in the patent by mistake. Form. Disclaimer not to affect pending suits. In case of death of patentee. Effect of disclaimer.
- Sec. 21.—Government may use patented invention.
- Sec. 22.—Patents to be assignable. To be registered on pain of nullity.
- Sec. 23.—Remedy for infringement of Patent.
- Sec. 24.—Action for infringement of patent. Injunction may issue. Appeal allowed.
- Sec. 25.—Court may discriminate in certain cases.
- Sec. 26.—Defence in actions for infringement.
- Sec. 27.—Patent may be declared void in certain cases, or valid only for part. Copy of judgment to be sent to Patent Office.
- Sec. 28.—Patents to be conditional for the manufacture in Canada of the thing patented; and of the patentee's not importing it into Canada. Proviso. Commissioner may extend the term for manufacture in Canada.
- Sec. 29.—Proceedings for impeachment of patent. *Scire facias* may issue.
- Sec. 30.—Judgment voiding patent to be filed in Patent Office.
- Sec. 31.—To be subject to appeal.
- Sec. 32.—Existing Provincial and Dominion patents to remain in force. Extension of Provincial patents to other Provinces on certain conditions.
- Sec. 33.—Records of Provincial Patent Offices to be handed over to the Commissioner.

Sec. 34.—Tariff of fees.

Sec. 35.—For copies of drawings.

Sec. 36.—Fees to be in full of all services.

Sec. 37.—Fees to form part of Consolidated Revenue Fund of Canada. Exception.

Sec. 38.—Return of fees in certain cases only. Case of withdrawal.

Sec. 39.—Intending applicant for a patent may file a caveat. Effect of caveat. Proviso. Duration of caveat.

Sec. 40.—Commissioner may object to grant a patent in certain cases.

Sec. 41.—Whenever the Commissioner objects to grant a patent he shall notify ground of objection to applicant.

Sec. 42.—Appeal by applicant to Governor in Council.

Sec. 43.—Arbitration in case of interfering applications. Appointment of Arbitrators. Their oath of office. Powers of Arbitrators to summon and swear witnesses. Wilful false evidence to be perjury. As to fees to Arbitrators, and by whom paid.

Sec. 44.—Documents to be open to inspection.

Sec. 45.—As to clerical errors.

Sec. 46.—Destroyed patent may be replaced.

Sec. 47.—As to use of patented article in foreign vessels.

Sec. 48.—Patent not to affect a previous purchaser of the invention. Proviso : As to other persons.

Sec. 49.—Patented articles to be marked as such. Penalty for default.

Sec. 50.—Falsely marking anything as patented to be a misdemeanor. Punishment.

Sec. 51.—Making false entry or copy in matters subject to this Act to be a misdemeanor.

Sec. 52.—Inconsistent enactments repealed. Exception.

Sec. 53.—Short title.

Sec. 54.—Commencement of Act.

Extract from Rules and Regulations of Patent Office.

Rule 1.—There is no necessity for any personal appearance at the Patent Office, unless specially called for by order of the Commissioner or Deputy Commissioner, every transaction being carried on in writing.

Rule 8.—All fees required by law must be transmitted with the application to which they appertain, in values not subject to any discount; and better be sent, whenever practicable, in Post Office Money Orders, enclosed in registered letters. In no case should money be sent enclosed with models.

Rule 9.—All applications must be proceeded with and perfected within two years after the lodging of the petition; in default of which it will be regarded as abandoned, and all previous proceedings and payment of fees will be held at the expiration of that period as of no avail.

Rule 10.—Two or more separate inventions cannot be claimed in one application, nor patented in one patent, unless they are so dependent on and connected with each other as to be necessarily taken together to obtain the end sought for by the inventor; and in this latter case the Commissioner of Patents shall be the judge whether or not the pretensions of the applicant are founded on fact and reason.

Rule 11.—The filing of a protest against the issuing of a patent shall not be taken in itself as sufficient reason to withhold the granting of such patent to an applicant.

- Rule 12.—In cases of doubt, and in accordance with the letter and meaning of the law, patents may be issued for an invention already patented, a trial before a judicial tribunal being in such cases the only means of discovering who is the real or first inventor.
- Rule 13.—A caveat must be composed of a specification (and drawings), and as long as it remains uninterfered with, and that the filer is not called upon to lodge his application in due form on account of an interfering application, the said proprietor thereof can lodge with it additional papers, provided these papers are relevant exclusively to the perfecting of the same invention in progress of completion. The person filing a caveat will not be entitled to notice of any application pending at the time of filing his caveat.
- Rule 15.—In the matter of a reissue, whatever is really embraced in the original papers and so described or shown that it might have been embraced in the original patent, may be the ground for a reissue. No new matter shall be introduced into the specification, nor shall the model and drawings be amended except each by the other. In the absence of model or drawing, amendments may be made, upon satisfactory proof to the Commissioner that such amendments were a part of the invention although omitted in the original papers.
- Rule 17.—The office cannot respond to enquiries as to the probability of an alleged invention being patented in advance for an application for a patent, nor to enquiries founded upon brief and imperfect descriptions, propounded with a view of ascertaining whether alleged improvements have been patented, and if so, by whom; nor can it act as an expounder of the patent law, nor as counsellor for individuals, except as to questions arising within the office.
- Rule 18.—All business with this office should be transacted in writing. The action of the office will be based exclusively on the written record. No attention will be paid to any alleged verbal promise or understanding in relation to which there is any disagreement or doubt.
- Notice III.—It is particularly recommended that reference should be made to the law before writing on any subject to the Department, in order to avoid unnecessary explanations and useless loss of time and labor; and it is also recommended in every case to have the papers and drawings prepared by a competent person, for the interest both of the applicant and of the public service.
- Notice IV.—Although it is optional with the applicant to annex drawings to the specification of a caveat or not, still it is important, in the interest of the inventor, always to attach drawings to the said specification.
- Notice V.—It must be remembered that the better papers are executed the sooner the work is dispatched at the office, and the surer the regularity of the proceedings is guaranteed.
- Notice VI.—A copy of the Rules, with a particular section marked, sent to the individual making an enquiry, is intended as a respectful answer by the office.

Who may obtain Patents.

Any person having invented any new and useful art, machine, manufacture or composition of matter, or any improvement thereon, may obtain a patent, provided the said invention has not been known as used in Canada, or patented in any other country for more than one year before the Canadian application. The patent may be issued to an assignee of entire interests, provided the inventor is

entitled to a patent. The law permits the patent to be issued in the joint names of the inventor and assignee. Joint inventors are entitled to a joint patent.

Caveats.

An inventor desiring to obtain protection for an invention not yet perfected to enable him to experiment and test its value, may file a description of it so far with or without drawings, at his own will.

This document is called a caveat, and entitles the inventor to a notice from the Commissioner should an application for a patent for a similar object be made. Should this notice be received by a caveator, he must proceed with and complete his application within three months from the mailing of the notice; otherwise he loses his priority.

A caveat, if unopposed, remains in force for one year; after which it becomes merely a document to prove novelty or priority of invention. A caveat cannot be filed for an invention which is already perfect, nor can any sale of the article be made during the existence of the caveat.

Government fee, \$5. Our fee is in ordinary cases \$5, but when drawings are required, and an elaborate description necessary, we charge according to the time occupied in preparing them. A non-resident may file a caveat. There is no model required.

Preliminary Examination.

When an inventor desires to procure a patent, his first step naturally is to find out whether his invention is patentable, and if so, whether any patent granted for the same object is existing. This information can only be obtained by a search in the Patent Office, and those wishing it should send us a description, with model or sketch (model preferred) of their invention, upon the receipt of which we will proceed with the preliminary examination. If in the search it should be found to be at all similar to an existing patent, a sketch of the patent, with our opinion and recommendation as to his future action, will be forwarded to the inventor.

Fee for the preliminary examination, \$5.

Final Application.

In case inventors do not desire either to have a preliminary search made, or to file a caveat, we proceed with their application immediately upon the receipt of their model, instructions, &c., with Government fee, \$20. The drawings and specification in duplicate, and other official papers, are at this stage prepared and forwarded to the inventor for his signature, with full instructions as to the manner of executing the same. Having been signed, attested, &c., they are to be returned to us with our agency fee. The application is then deposited in the Patent Office. We forward a report of the result of the application immediately it has been laid before the Commissioner of Patents. Our fee for making an application is in ordinary cases \$20.

A model made in a neat and substantial manner, to a convenient scale, and constructed so that all the parts the inventor wishes to claim are accessible, must be deposited in the Patent Office before the issue of the patent. The model must not exceed eighteen inches square, unless otherwise allowed by special permission previously obtained. When the invention is a composition of matter, samples of the composition and samples of the ingredients, sufficient in quantity for experiments, are required, and must be contained in glass bottles properly labelled. Patents are issued for five, ten or fifteen years, at the option of applicant, but at or before the expiration of the said five or ten years, the holder thereof may ob-

tain an extension for five years; and after those secured five years, may again obtain a further extension for another period of five years, but not in any case to exceed a total period of fifteen years.

Assignments of Patents.

Patents are assignable by law.

The Government of Canada may always use any patented invention or discovery, paying to the inventor such sum as the Commissioner may report to be a reasonable compensation for its use. Every assignment or grant must be registered; if not registered, the grant or assignment will be deemed null and void against any which has been registered.

Our fee for preparing an assignment is \$3. Government fee for registering the same is \$2.

UNITED STATES.

Patents are issued to citizens or aliens, and must be applied for by the actual inventor. The duration is seventeen years, which in the case of inventions previously patented abroad, is reckoned from the date of the foreign patent. American privileges expire with prior foreign patents for the same invention.

Two or more separate machines cannot be included under one patent, unless connected in their design and operation. The drawings sent in must be of a particular size, and the application must be accompanied by a model or specimen of prescribed dimensions.

The authorities are very strict; consequently specifications, documents, &c., have to be prepared with special regard to official regulations. A number of examiners and assistant examiners are engaged at Washington in investigating applications submitted to them, according to each particular class. Each application, after being filed, is sent to the proper examiner; and if the invention is not new the case is rejected, and reference made to prior inventions. In such cases a re-examination may be demanded, the application supported by written or oral arguments, and, when desirable, amendments made to remove the objections of the same examiner; from whom, if he persists in his objections, there is an appeal to the Board of Examiners; and from them to the Commissioner in person. Should the decision of the latter be adverse, a final appeal may be made to a Judge of the Supreme Court of the District of Columbia; but it is rarely necessary to carry any case beyond the Board of Examiners. ¶

Inventions may be wholly or partially assigned before or after the issue of the patent.

Caveats.

Caveats can only be filed by citizens of the United States, or resident aliens who have declared their intention to become citizens. Government fee \$10. Our fee is usually the same. For further information refer to "Caveats" previously described.

Preliminary Examination.

Made as in Canada.

Final Application.

1st, Government fee, \$15, payable on filing the application; 2nd, Government fee, \$20, payable when patent is ordered to issue. Our fee is usually \$25, payable on preparing application. Remarks made on final application in Canada may be referred to, as they apply to the United States also.

GREAT BRITAIN

English patents may be obtained by any person who is the true inventor, discoverer or introducer, provided the subject is a patentable one. The protection extends throughout the United Kingdom of Great Britain and Ireland, the Channel Islands and the Isle of Man, and for a period of fourteen years. The only exception occurs where there has been a patent previously obtained abroad, in which case the British patent becomes void upon the expiration of the foreign one. Moreover, a valid British patent cannot be obtained after the expiration of any patent previously granted elsewhere for the same invention. In applying for British patents, the course usually adopted is first to obtain a provisional protection, having which the inventor may experiment to perfect his invention, without affecting the value of the letters patent to be granted therefor. The provisional protection remains in force for six months, and the expense of obtaining it, including Government Agency fees, &c., is usually about \$50.

In order to secure the patent for three years, notice of intention to proceed must be given at least eight weeks before the term of the provisional protection has expired, and the complete specification must be filed and patent sealed. The expense, including everything, is in ordinary cases about \$200.

Before the first three years expire a stamp duty of £50 (\$250) must be paid, and at the end of seven years from the sealing of the patent a stamp duty of £100 (\$500) becomes due, establishing the patent for the fourteen years. These payments are optional with the inventor, as he may permit the patent to expire at termination of any of these periods.

FRANCE.

Patents are granted for fifteen years, subject to certain conditions, and extend over the colonies. If the invention has been previously patented abroad the French patent terminates upon the expiration of the foreign privilege. Drawings accompanying the application are prepared to a metrical scale. Patents bear date from day of deposit of papers. An extension may be obtained by a special enactment. There is a small annual tax to be paid at the beginning of each year.

A patent becomes void—1st, unless this tax is paid before the commencement of each year; 2nd, if the inventor should fail without just cause to work his invention in France within two years from date of patent, or if he permits it to remain inoperative for two consecutive years; 3rd, by introducing into France objects manufactured abroad, and similar to those protected by the patent, without permission from the Minister of Agriculture and Commerce.

The entire fees to obtain a patent amount in ordinary cases to about \$80.

RUSSIA.

Patents may be obtained for various terms not exceeding ten years. If the invention has been previously patented in other countries, the Russian patent expires when the original patent becomes void. The time chosen by the inventor when applying cannot afterwards be extended. Inventions cannot be patented unless of some practical advantage. When patented, the invention must be put into actual use within the first quarter of the term for which the patent has been granted. Average cost from \$275 to \$550.

PRUSSIA.

Patents are granted for various terms not less than six months or more than fifteen years. Foreign inventors are rarely permitted the privilege for longer

than five years. Patents must be worked before the expiration of six months from the date of delivery. Average cost from \$70 to \$100.

AUSTRIA.

Exclusive privileges are granted for any number of years not exceeding fifteen. The Emperor, in some cases, may extend the term. When the invention is patented abroad, the Austrian patent becomes void when the foreign privilege expires. No patent can be obtained for an invention or discovery which cannot be worked for reasons of public health, morals, or safety. Inventions from abroad cannot be patented unless secured in the country where they originated. Inventions must be worked within the first year, and if permitted to remain idle for two consecutive years the patent becomes void. Average cost from \$90 to \$100.

ITALY.

Patents extending over the whole kingdom are issued under one grant, bearing date from the last day of one of the months of March, June, September or December, whichever next follows that on which the application is made. The privilege is extended for any number of years the inventor chooses, not exceeding fifteen. If patented abroad, the Italian protection expires with the foreign one granted for the longest period. The drawings must be prepared to a metrical scale. Average scale from \$150 to \$500, according to duration.

SPAIN.

Patents are delivered, without previous examination as to utility or novelty, for terms of five, ten or fifteen years. Average cost from \$150 to \$500, according to duration.

PORTUGAL.

The longest term for which a patent is granted is fifteen years. If secured abroad, it will lapse with the foreign patent first granted. Drawings prepared to a metrical scale. Average cost \$185 to \$250.

DENMARK.

Exclusive privileges are granted for from three to fifteen years; usually the privilege extends for five. Average cost from \$100 to \$130.

NORWAY.

Patents extend for two years. Average cost from \$100 to \$120.

SWEDEN.

Patents are granted for from three to fifteen years, according to the utility of the invention, and lapse with the prior foreign privilege, if already secured abroad. Average cost \$45 to \$75.

HOLLAND.

A patent may be obtained for either five, ten or fifteen years; and if originally procured for one of the shorter terms, the patent may be prolonged, provided it does not extend over fifteen years, or beyond the term of any privilege already secured abroad. Average cost from \$100 to \$130.

BELGIUM.

The full term of a patent is twenty years; if previously patented abroad, it becomes void when the foreign privilege expires. A small annual tax is exacted. Average cost \$45 to \$75.

HANOVER.

Ten years is the longest period of a patent, and it will expire with the prior foreign privilege, if there be one. Average cost from \$100 to \$130.

HAMBURG.

Exclusive privileges are granted for terms varying from three to fifteen years. Average cost from \$100 to \$120.

WURTEMBERG.

Patents are issued for term not exceeding ten years. Imported patents lapse with the privilege granted elsewhere prior to the introduction. Average cost from \$75 to \$125, according to the time applied for.

BADEN.

Privileges granted for from one to fifteen years. Average cost \$100 to \$125.

BAVARIA.

Protection is extended to inventions for fifteen years at most. Average cost for five years from \$100 to \$125.

SAKONY.

Patents are granted at first for five years, which time may be extended for five years more upon application. Average cost for five years, \$100 to \$125.

 REGISTRATION OF DESIGN, TRADE MARK, &c.

CANADA.

All marks, names, packages, brands, labels, or other business devices adopted for use by any person in his business for the purpose of distinguishing any article sold by him, shall be considered as trade marks, and may be registered for his exclusive use. The copyright for an industrial design is valid for five years. Usual cost, including Government and Agency fees, \$10.

GREAT BRITAIN.

Designs are registered under two headings—"Useful" and "Ornamental."

Useful.

A copyright lasting three years is granted to any one who designs a new shape or configuration of any article of manufacture or substance; provided always such shape or configuration be useful. Average cost from \$60 to \$100.

Ornamental.

A new design for ornamenting any article of manufacture or substance may be registered, and a protection obtained for terms varying from one to five years, depending upon the article. The expense of registration is also governed by the article registered, and varies from \$5 to \$30.

UNITED STATES.

Designs may be registered for either three and a half, seven, or fourteen years, whichever the applicant applies for. The usual cost is \$20 for three and a half years, \$25 for seven years, \$40 for fourteen years.

TABLE shewing Population of Canada in Provinces, and of the United States in States; also the area in square miles of every Province and State, with the number of Counties or Districts in each, compiled from the latest Census Returns.

CANADA.			
NAME OF PROVINCE.	Area.	No. of Counties.	Total Population.
Ontario	180,000 s. m.	46	1,620,842
Quebec	210,000 "	60	1,190,505
New Brunswick	27,700 "	14	289,777
Nova Scotia	19,500 "	14	387,800
Manitoba	14,000 "	4	14,000
British Columbia	225,000 "	8	11,000
UNITED STATES.			
NAME OF STATE.	Area.	No. of Counties.	Total Population.
Alabama	50,722	65	996,992
Arkansas	52,198	61	448,471
California	188,981	50	560,247
Connecticut	4,674	8	587,454
Delaware	2,120	3	125,015
Florida	59,268	39	187,748
Georgia	58,000	132	1,184,109
Illinois	55,405	102	2,635,891
Indiana	33,809	92	1,680,637
Iowa	50,914	98	1,191,792
Kansas	78,418	64	364,399
Kentucky	37,680	115	1,321,011
Louisiana	41,255	53	726,915
Maine	31,766	16	626,915
Maryland	11,124	22	780,894
Massachusetts	7,800	14	1,457,351
Michigan	56,243	71	1,184,059
Minnesota	95,274	71	439,705
Mississippi	47,156	65	827,922
Missouri	67,380	114	1,721,295
Nebraska	75,995	56	122,993
Nevada	112,080	14	42,491
New Hampshire	9,280	10	318,300
New Jersey	3,320	21	906,096
New York	47,000	60	4,382,759
North Carolina	50,704	90	1,071,361
Ohio	39,964	88	2,665,260
Oregon	102,666	22	90,923
Pennsylvania	46,001	66	3,521,791
Rhode Island	1,306	5	217,353
South Carolina	29,385	31	705,606
Tennessee	45,600	84	1,258,529
Texas	237,504	141	818,579
Vermont	10,212	14	330,551
Virginia	38,352	99	1,225,163
West Virginia	23,000	53	442,014
Wisconsin	53,924	58	1,054,670
District of Columbia	60	..	131,709
TERRITORIES.			
Arizona	113,916	4	9,658
Colorado	104,500	21	39,864
Dakota	50,932	15	14,181
Idaho	86,294	9	14,999
Montana	143,776	11	20,595
New Mexico	121,201	13	91,874
Utah	84,476	21	86,955
Washington	69,994	22	23,955
Wyoming	97,883	5	9,118

and States in
te, with the
test Census

Total
Population.

1,620,842
1,190,505
289,777
387,800
14,000
11,000

Total
Population.

996,992
448,471
560,247
587,454
125,015
187,748
1,184,100
2,535,891
1,640,637
1,191,792
364,399
1,321,011
726,915
626,915
780,894
1,457,351
1,184,059
439,703
827,922
1,721,295
122,993
42,491
318,300
906,096
382,759
1,071,361
1,665,260
90,923
521,791
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330,551
225,163
442,014
131,709

9,658
39,864
14,181
14,999
20,595
91,874
86,955
23,955
9,118



ANNO TRECESIMO-QUINTO.

VICTORIÆ REGINÆ.

CAP. XXVI.

An Act respecting Patents of Invention.

[Assented to 14th June, 1872.]

HER MAJESTY, by and with the advice and consent of the Preamble,
Senate and House of Commons of Canada, enacts as follows :—

PATENT OFFICE CONSTITUTED.

1. There shall be attached to the Department of Agriculture, Minister of Agriculture to be Commissioner of Patents of Invention.
as a branch thereof, an office to be called the Patent Office; and the Minister of Agriculture for the time being shall be the Commissioner of Patents; and it shall be the duty of the said Commissioner to receive all applications, fees, papers, documents and models for patents, and to perform all acts and things requisite to the granting and issuing of patents of invention; and he shall have the charge and custody of the books, records, papers, models, machines and other things belonging to the said Office.

2. The Commissioner shall cause a seal to be made for the Seal to be made and impressions thereof to be received in evidence.
purposes of this Act, and may cause to be sealed therewith patents and other instruments and copies proceeding from the Patent Office; and all Courts, Judges, and other persons whomsoever shall take notice of such seal, and receive impressions thereof in evidence, in like manner as impressions of the Great Seal are received in evidence, and shall also take notice of and receive in evidence, without further proof and without production of the originals, copies or extracts certified under the seal of the said office to be copies of or extracts from documents deposited in such office.

3. The Commissioner may, from time to time, subject to the Commissioner to make rules.
approval of the Governor in Council, make such rules and regulations, and prescribe such forms, as may appear to him necessary and expedient for the purposes of this Act, and notice thereof shall be given in the *Canada Gazette*; and all documents, executed in conformity with the same and accepted by the Commissioner, shall be held valid so far as relating to proceedings in the Patent Office. Publication and effect]

Deputy
Commissioner
and Clerks.

Employés in
Patent Office
not to be
concerned in
patents.

Exception.

4. The Deputy of the Minister of Agriculture shall be the Deputy Commissioner of Patents of Invention; and the Governor in Council may, from time to time, appoint such clerks and officers under him as may be necessary for the purposes of this Act, and such clerks and officers shall hold office during pleasure. No officer or employé of the Patent Office shall buy, sell or acquire, or traffic in an invention or patent, or rights to patents therefor; and every such purchase and sale, and every assignment or transfer thereof, by or to any officer or employé as aforesaid, shall be utterly null and void. But this shall not apply to any original inventor, or to the acquisition by bequest.

Annual report
and list of
patents.

Publication of
specifications.

5. The Commissioner shall cause a report to be prepared annually and laid before Parliament of the proceedings under this Act, and shall, from time to time, and at least once in each year, publish in the *Canada Gazette* a list of patents granted, and may with the approval of the Governor in Council, cause such specifications and drawings as may be deemed of interest, or essential parts thereof, to be printed from time to time for distribution or sale.

WHO MAY OBTAIN PATENTS.

Any person
may obtain a
patent for his
invention not
having been
then in public
use in Canada
for more than
one year.

Form of
patent.

Proviso: what
shall not be
patentable.

6. Any person having invented any new and useful art, machine, manufacture or composition of matter, or any new and useful improvement on any art, machine, manufacture or composition of matter, not known or used by others before his invention thereof, and not being in public use or on sale for more than one year previous to his application, in Canada with the consent or allowance of the inventor thereof, may, on a petition to that effect presented to the Commissioner, and on compliance with the other requirements of this Act, obtain a patent granting to such person an exclusive property therein; and the said patent shall be under the seal of the Patent Office and the signature of the Commissioner, or the signature of another member of the Privy Council, and shall be good and avail to the grantee, his executors, administrators or assigns for the period mentioned in such patent; but no patent shall issue for an invention having an illicit object in view, nor for any mere scientific principle or abstract theorem.

As to inven-
tions for
which foreign
patents have
been taken out.

7. But an inventor shall not be entitled to a patent for his invention, if a patent therefor in any other country shall have been in existence in such country more than twelve months prior to the application for such patent in Canada; and if during such twelve months any person shall have commenced to manufacture in Canada the article for which such patent is afterwards obtained, such person shall continue to have the right to manufacture and sell such article, notwithstanding such patent; and under any circumstances, where a foreign patent exists, the Canadian patent shall expire at the earliest date at which any foreign patent for the same invention expires.

8. The patent may be granted to any person to whom the inventor entitled under the sixth section to obtain a patent has assigned or bequeathed the right of obtaining the same, or in default of such assignment or bequest, to the executors or administrators or assigns of the deceased inventor. Representatives of inventor may obtain the patent.

9. Any person, who has invented any improvement on any patented invention, may obtain a patent for such improvement, but shall not thereby obtain the right of vending or using the original invention, nor shall the patent for the original invention confer the right of vending or using the patented improvement. As to patents for improvements on patented inventions. Proviso.

10. In cases of joint applications, the patent shall be granted in the names of all the applicants; and in such cases, any assignment from one of the said applicants or patentees to the other or to any person, shall be registered in like manner as other assignments. As to joint application for patent.

CONDITIONS AND FORMALITIES.

11. Every inventor, before a patent can be obtained, shall make oath, or, when entitled by law to make an affirmation instead of an oath, shall make an affirmation, that he verily believes that he is, or, in the case of the inventor being deceased, the applicant shall make oath or affirm that the person whose assignee or representative he is, was the inventor of the invention for which the patent is solicited, and that the several allegations in the petition contained are respectively true and correct. Such oath or affirmation may be made before any Justice of the Peace in Canada; but if the inventor or the applicant is not at the time in Canada the oath or affirmation may be made before any Minister Plenipotentiary, *chargé d'affaires*, consul, vice-consul or consular agent, holding commission under the Government of the United Kingdom, or any Judge of the country in which the applicant happens at the time to be. Declaration to be made by applicant for a patent. Before whom.

12. The petitioner for a patent shall for all the purposes of this Act elect his domicile at some known and specified place in Canada and mention the same in his petition for a patent. Applicant to elect a domicile in Canada.

13. The applicant shall, in his petition for a patent, insert the title or name of the invention, and shall, with the petition, send in a specification, in duplicate. Particulars required in application.

14. The specification shall correctly and fully describe the mode or modes of operating contemplated by the inventor; and shall state clearly and distinctly the contrivances and things which he claims as new and for the use of which he claims an exclusive property and privilege; it shall bear the name of the place where it is made, the date, and be signed by the inventor if he be alive, (and if not by the applicant) two witnesses; in Specification and drawing, form of, and what to show.

Commissioner
may require
further
drawings,

Drawings low
disposed of.

Working
model to be
delivered to
the Commis-
sioner.

Or specimens
of ingredients.

Exception as
to explosive
materials

the case of a machine the specification shall fully explain the principle and the several modes in which it is intended to apply and work out the same; in the case of a machine or in any other case where the invention admits of illustration by means of drawings, the applicant shall also, with his application, send in drawings in duplicate showing clearly all parts of the invention; and each drawing shall bear the signature of the applicant or of his attorney and shall have written references corresponding with the specification, but the Commissioner may require further drawings or dispense with any of them, as he may see fit; one duplicate of the specification and of the drawings, if there are drawings, shall be annexed to the patent of which it forms an essential part, and the other duplicate shall remain deposited in the Patent Office.

15. The applicant shall also deliver to the Commissioner, unless specially dispensed from so doing for some good reason, a neat working model of his invention on a convenient scale, exhibiting its several parts in due proportion, whenever the invention admits of such model; and shall deliver to the Commissioner specimens of the ingredients, and of the composition of matter sufficient in quantity for the purpose of experiment, whenever the invention is a composition of matter; provided such ingredients and composition are not of an explosive character or otherwise dangerous, in which case they are to be furnished only when specially required by the Commissioner, and then with such precautions as shall be prescribed in the said requisition.

CONTENTS, DURATION, SURRENDER, RE-ISSUE OF PATENTS AND DISCLAIMERS.

Contents of
patents.

Conditions.

Duration of
patents and
periodical ex-
tension—not
exceeding
fifteen years
in all.

Form of ex-
tension.

16. Every patent granted under this Act shall contain the title or name of the invention, with a reference to the specification, —and shall grant to the patentee, his executors, administrators, and assigns, for the period therein mentioned from the granting of the same, the exclusive right, privilege and liberty of making, constructing and using, and vending to others to be used, the said invention, subject nevertheless to adjudication before any Court of competent jurisdiction.

17. Patents of invention issued by the Patent Office shall be valid for a period of five, ten or fifteen years at the option of the applicant; but at or before the expiration of the said five or ten years, the holder thereof may obtain an extension of the patent for another period of five years, and after those second five years, may again obtain a further extension for another period of five years, not in any case to exceed a total period of fifteen years in all; and the instrument delivered by the Patent Office for such extension of time shall be in the form which may be from time to time adopted, to be attached, with reference, to the patent, and under the signature of the Commissioner, or of any other member of the Privy Council in case of absence of the Commissioner.

explain the principal to apply and in any other case of drawings, in drawings in tion; and each of his attorney in the specifications or drawings or duplicate of the drawings, shall be a part, and the Office.

Commissioner, unless reason, a neat drawing, exhibiting invention admits of specimens of sufficient in the invention is and composition dangerous, in all required as shall be

PATENTS AND

contain the specification, administrators, the granting of making, said the said any Court

ice shall be option of the five or ten the patent five years, period of five en years in ce for such om time to patent, and er member sioner.

18. Every patent and instrument for the extension of time as aforesaid shall, before it is signed by the Commissioner or any other member of the Privy Council and before the seal hereinbefore mentioned is affixed to it, be examined by the Minister of Justice, who, if he finds it conformable to law, shall certify accordingly, and such patent or instrument may then be signed and the seal affixed thereto, and being duly registered, shall avail to the grantee thereof.

Patent or extension to be examined by Minister of Justice before granted.

19. Whenever any patent shall be deemed defective or inoperative by reason of insufficient description or specification, or by reason of the patentee claiming more than he had a right to claim as new, but at the same time it appears that the error arose from inadvertence, accident or mistake, without any fraudulent or deceptive intention, the Commissioner may, upon the surrender of such patent and the payment of the further fee hereinafter provided, cause a new patent, in accordance with an amended description and specification to be made by such patentee, to be issued to him for the same invention for any part or the whole of the then unexpired residue of the period for which the original patent was or might have been, as hereinbefore directed, granted:—In case of the death of the original patentee or of his having assigned the patent, a like right shall vest in his assignee or legal representative: The new patent, and the amended description and specification, shall have the same effect in law, on the trial of any action thereafter commenced for any cause subsequently accruing, as if the same had been originally filed in such corrected form before the issue of the original patent.

In certain cases of error, &c., the Commissioner may cause a new patent to issue, on amended specification.

Effect of new patent and specification

20. Similarly, whenever by any mistake, accident or inadvertence, and without any wilful intent to defraud or mislead the public, a patentee has made his specification too broad, claiming more than that of which he or the party through whom he claims was the first inventor, or has in the specification claimed that he or the party through whom he claims was the first inventor of any material or substantial part of the invention patented, of which he was not the first inventor, and to which he had no legal right;—the patentee may, on payment of the fee hereinafter provided, make disclaimer of such parts as he does not claim to hold by virtue of the patent or the assignment thereof. Such disclaimer shall be in writing, and in duplicate, and attested in the manner hereinbefore prescribed for a patent, one copy to be filed and recorded in the office of the Commissioner, the other copy to be attached to the patent and made a part thereof by reference, and such disclaimer shall thereafter be taken and considered as part of the original specification. Such disclaimer shall not affect any action pending at the time of its being made, except in so far as may relate to the question of unreasonable neglect or delay in making it. In case of the death of the original Patentee or of his having assigned the patent, a like right shall vest in his assignee or legal representatives respectively, any of whom may make disclaimer. The patent shall thereafter be deemed good and

Patentee may disclaim anything included in the patent by mistake.

Form.

Disclaimer not to affect pending suits.

In case of death of patentee.

Effect of
disclaimer.

valid to such of the invention as is truly the disclaimant's own and not disclaimed, provided it be a material and substantial part of the invention, and definitely distinguished from other parts claimed without right; and the disclaimant shall be entitled to maintain a suit for such part accordingly.

ASSIGNMENT AND INFRINGEMENT OF PATENTS.

Government
may use
patented
invention.

21. The Government of Canada may always use any patented invention, paying to the patentee such sum as the Commissioner may report to be a reasonable compensation for the use thereof.

Patents to be
assignable.

22. Every patent for an invention whensoever issued shall be assignable in law either as to the whole interest or as to any part thereof, by any instrument in writing; but such assignment, and also every grant and conveyance of any exclusive right to make and use and to grant to others the right to make and use the invention patented, within and throughout Canada or any part thereof, shall be registered in the office of the Commissioner, in the manner from time to time adopted by the Commissioner of Patents for such registration; and every assignment affecting a patent for invention shall be deemed null and void against any subsequent assignee unless such instrument is registered as hereinafter prescribed, before the registering of the instrument under which such subsequent assignee may claim.

To be regis-
tered on pain
of nullity.

Remedy for
infringement
of patent.

23. Every person who, without the consent in writing of the patentee, makes, constructs or puts in practice any invention for which a patent has been obtained under this Act or any previous Act, or procures such invention from any person not authorized to make or use it by the patentee, and uses it, shall be liable to the patentee in an action of damages for so doing;—and the judgment shall be enforced, and the damages and costs that may be adjudged, shall be recovered in like manner as in other cases in the Court in which the action is brought.

Action for
infringement
of patent.

24. An action for the infringement of a patent may be brought before any Court of Record having jurisdiction to the amount of damages asked for, and having its sittings within the Province in which the infringement is said to have taken place, and being, at the same time, of the Courts of such jurisdiction within such Province, the one of which the place of holding is nearest to the place of residence or of business of the defendant; and such Court shall decide the case and determine as to costs. In any action for the infringement of a patent, the court, if sitting, or any Judge thereof in chambers, the Court be not sitting, may, on the application of the plaintiff or defendant respectively, make such order for an injunction, restraining the opposite party from further use, manufacture, or sale of the subject matter of the patent, and for his punishment in the event of disobedience to such order, or for inspection or account, and respecting the same and the proceed-

Injunction
may issue.

ings in the action, as the Court or Judge may see fit;—but, from Appeal such order, an appeal shall lie under the same circumstances and to the same Court, as from other judgments or orders of the Court in which the order was made.

25. Whenever the plaintiff fails to sustain his action, because his specification and claim embrace more than that of which he was the first inventor, and it appears that the defendant used or infringed any part of the invention, justly and truly specified and claimed as new, the court may discriminate, and the judgment may be rendered accordingly.

26. The defendant, in any such action, may specially plead as matter of defence, any fact or default which, by this Act, or by law, would render the patent void; and the Court shall take cognizance of that special pleading and of the facts connected therewith, and shall decide the case accordingly.

NULLITY, IMPEACHMENT AND AVOIDANCE OF PATENTS.

27. A patent shall be void, if any material allegation in the petition or declaration of the applicant be untrue, or if the specifications and drawings contain more or less than is necessary for obtaining the end for which they purport to be made, such omission or addition being wilfully made for the purpose of misleading; but if it shall appear to the Court that such omission or addition is simply an involuntary error, and it is proved that the patentee is entitled to the remainder of his patent *pro tanto*, the Court shall render a judgment in accordance with the facts, and determine as to costs, and the patent shall be held valid for such part of the invention described; and two office copies of such judgment shall be furnished to the Patent Office by the patentee, one to be registered and to remain of record in the office, and the other to be attached to the patent, and made a part of it by a reference.

28. Every patent granted under this Act shall be subject and expressed to be subject to the condition that such patent and all the rights and privileges thereby granted shall cease and determine and the patent shall be null and void, at the end of two years from the date thereof, unless the patentee, or his assignee or assignees, shall, within that period have commenced, and shall, after such commencement, continuously carry on in Canada the construction or manufacture of the invention or discovery patented, in such manner that any person desiring to use it may obtain it, or cause it to be made for him at a reasonable price, at some manufactory or establishment for making or constructing it, in Canada, and that such patent shall be void if, after the expiration of twelve months from the granting thereof, the patentee, or his assignee or assignees, for the whole or a part of his interest in the patent, imports, or causes to be imported into Canada, the

Patent may be declared void in certain cases, or valid only for part.

Defence in actions for infringement.

Patent may be declared void in certain cases, or valid only for part.

Copy of judgment to be sent to Patent Office.

Patents to be conditional for the manufacture in Canada of the thing patented;

And of the patentee's not importing it into Canada.

Proviso.

invention for which the patent is granted; and provided always, that in case disputes should arise as to whether a patent has or has not become null and void under the provisions of this section, such disputes shall be settled by the Minister of Agriculture, or his deputy, whose decision shall be final.

Commissioner may extend the term for manufacture in Canada,

2. Whenever a patentee has been unable to carry on the construction or manufacture of his invention within the two years hereinbefore mentioned, the Commissioner may grant to the patentee a further delay on his adducing proof to the satisfaction of the Commissioner that he was for reasons beyond his control prevented from complying with the same; but no such further delay shall be thus granted in any case in advance of the time hereinbefore prescribed.

Proceedings for impeachment of patent.

29. Any person desiring to impeach any patent issued under this Act, may obtain a sealed and certified copy of the patent and of the petition, affidavit, specification and drawings thereunto relating, and may have the same filed in the office of the Prothonotary or Clerk of the Superior Court for the Province of Quebec, or of the Court of Queen's Bench or Common Pleas for the Province of Ontario, or of the Supreme Court in the Province of Nova Scotia, or of the Court of Queen's Bench in the Province of New Brunswick, according to the domicile elected by the patentee as aforesaid, or in the Court of highest jurisdiction in the Province of Manitoba or British Columbia, which Courts shall adjudicate on the matter and decide as to costs. The patent and documents aforesaid shall then be held as of record in such Court, so that a writ of *Scire facias* under the seal of the Court grounded upon such record may issue for the repeal of the patent, for cause as aforesaid, if upon proceedings had upon the writ in accordance with the meaning of this Act, the patent be adjudged to be void.

Scire facias may issue.

Judgment voiding patent to be filed in Patent Office.

30. A certificate of the judgment voiding any patent shall, at the request of any person or party filing it to be of record in the Patent Office, be entered on the margin of the enrolment of the patent in the Office of the Commissioner, and the patent shall thereupon be and be held to have been void and of no effect, unless and until the judgment be reversed on appeal as herein-after provided.

To be subject to appeal.

31. The judgment declaring any patent void, shall be subject to appeal to any Court of Appeal having appellate jurisdiction in other cases over the Court by which the same was rendered.

PATENTS ISSUED UNDER FORMER LAWS.

Existing Provincial and Dominion patents to remain in force.

32. All patents issued under any Act of the Legislature of the late Province of Canada, or of Nova Scotia or of New Brunswick or of British Columbia, and all patents issued for the Provinces of Ontario and Quebec, under any Act of the late Province of Canada,

and all patents issued under the "Patent Act of 1869," to the date of the coming into operation of the present Act, shall remain in force for the same term and for the same extent of territory, as if the Act under which they were issued had not been repealed, but subject to the provisions of this Act in so far as applicable to them.

2. And it shall be lawful for the Commissioner, upon the application of the patentee named in any such patent, being the inventor of the subject matter of the patent, if the subject matter of the patent has not been known or used, nor with the consent of the patentee on sale in any of the other Provinces of the Dominion, to issue on payment of the proper fees in that behalf a patent under this Act extending such Provincial patent over the whole of the Dominion, for the remainder of the term mentioned in the Provincial patent.

Extension of Provincial patents to other Provinces, on certain conditions.

33. All the records of the Patent Offices of the late Province of Canada, and of the Provinces of Ontario and Quebec, of Nova Scotia and New Brunswick and British Columbia, shall be handed over by the officers in charge of them to the Commissioner of Patents of invention, to form part of the records of the Patent Office for the purposes of this Act.

Records of Provincial Patent Offices to be handed over to the Commissioner.

TARIFF OF FEES.

34. The following fees shall be payable to the Commissioner, before an application for any of the purposes hereinafter mentioned shall be entertained, that is to say:

On petition for a patent for 5 years.....	\$20 00
On petition for a patent for 10 years	40 00
On petition for a patent for 15 years	60 00
On petition for extension from 5 to 10 years.....	20 00
On petition for extension from 10 to 15 years ...	20 00
On petition for extension from 5 to 15 years ...	40 00
On lodging a caveat	5 00
On asking to register a judgment <i>pro tanto</i>	4 00
On asking to register an assignment	2 00
On asking to attach a disclaimer to a patent	2 00
On asking for a copy of patent with specification	4 00
On petition to re-issue a patent after surrender, and on petition to extend a former patent to the Dominion, for every unexpired year of the duration of sub-patent, the fee shall be at the rate of	4 00

On office copies of documents, not above mentioned, the following charges shall be made:—

For every single or first folio of certified copy.....	\$0 50
For every subsequent hundred words (fractions from and under fifty being not counted, and over fifty being counted for one hundred).....	0 25

For copies of drawings.

35. For every copy of drawings, the party applying shall pay such sum as the Commissioner considers a fair remuneration for time and labor expended thereon by any officer of the department or person employed to perform such service.

Fees to be in full of all services.

36. The said fees shall be in full of all services performed under this Act, in any such case, by the Commissioner or any person employed in the Patent Office.

Fees to form part of Consolidated Revenue Fund. Exception.

37. All fees received under this Act shall be paid over to the Receiver General and form part of the Consolidated Revenue Fund of Canada, except such sums as may be paid for copies of drawings when made by persons not receiving salaries in the Patent Office.

Return of fees in certain cases only.

38. No fee of any person shall be made the subject of exemption in favor of any person; and no fee, once paid, shall be returned to the person who paid it, except:

1. When the invention is not susceptible of being patented;
2. When the petition for a Patent is withdrawn;

And in every such case the Commissioner may return one half of the fee paid;

Case of withdrawal.

And in the case of withdrawal, a fresh application shall be necessary to revive the claim, as if no proceeding had taken place in the matter.

MISCELLANEOUS PROVISIONS.

Intending applicant for a patent may file a caveat.

Effect of caveat

39. An intending applicant for a patent who has not yet perfected his invention and is in fear of being despoiled of his idea, may file in the Patent Office a description of his invention so far, with or without plans, at his own will; and the Commissioner, on reception of the fee hereinbefore prescribed, shall cause the said document to be preserved in secrecy, with the exception of delivering copies of the same whenever required by the said party or by any judicial tribunal—the secrecy of the document to cease when he obtains a patent for his invention; and such document shall be called a *caveat*: Provided always that if application shall be made by any other person for a patent for any invention with which such *caveat* may in any respect interfere, it shall be the duty of the Commissioner forthwith to give notice by mail to the person who has filed such *caveat*, and such person shall within three months after the date of mailing the notice, if he would avail himself of the *caveat*, file his petition and take the other steps necessary on an application for patent, and if, in the opinion of the Commissioner the applications are interfering, like proceedings may be had in all respects as are by this Act provided in the case of interfering applications: Provided further, that

unless the person filing any *caveat* shall within one year from the filing thereof have made application for a patent, the Commissioner of Patents shall be relieved from the obligation of giving notice, the *caveat* then remaining as a simple matter of proof as to novelty or priority of invention if needed.

Proviso:
duration
of *caveat*.

40. The Commissioner may object to grant a patent in the following cases:—

Commissioner
may object to
grant a patent
in certain
cases.

1. When he is of opinion that the alleged invention is not patentable in law;

2. When it appears to him that the invention is already in the possession of the public with the consent or allowance of the inventor;

3. When it appears to him that there is no novelty in the invention;

4. When it appears that the invention has been described in a book or other printed publication before the date of the application, or is otherwise in the possession of the public;

5. When it appears that the invention has already been patented in Canada (or elsewhere, when the case is one within the seventh section of this Act,) except, however, when the case is one in which the Commissioner has doubts as to whether the patentee or the applicant is the first inventor.

41. Whenever the Commissioner objects to grant a patent as aforesaid, he shall notify the applicant to that effect and shall state the ground or reason therefor with sufficient detail to enable the applicant to answer, if he can, the objection of the Commissioner.

Commissioner
to notify
applicant to
ground of
objection to
applicant.

42. Every applicant who has failed to obtain a patent by reason of the objection of the Commissioner as aforesaid, may at any time within six months after notice thereof has been addressed to him or his agent, appeal from the decision of the Commissioner to the Governor in Council.

Appeal by
applicant to
Governor in
Council.

43. In case of interfering applications for any patent, the same shall be submitted to the arbitration of three skilled persons, one of whom shall be chosen by each of the applicants, and the third person shall be chosen by the Commissioner or by his deputy or the person appointed to perform the duty of that office;—And the decision or award of such arbitrators, or any two of them, delivered to the Commissioner in writing, and subscribed by them or any two of them, shall be final as far as respects the granting of the patent:

Arbitration in
case of inter-
fering appli-
cations.

2. If either of the applicants refuses or fails to choose an arbitrator, when required so to do by the Commissioner, the patent shall issue to the opposite party;—And when there are more than two interfering applicants, and the parties applying do

The same:
Appointment
of arbitrators

not all unite in appointing three arbitrators, the Commissioner or his deputy or person appointed to perform the duty of that officer, may appoint the three arbitrators for the purposes aforesaid.

Their oath of office.

3. The arbitrators so named shall, before a judge of any court in any of the Provinces of Canada, subscribe to the following oath :

"I, the undersigned (A.B.), being duly appointed an arbitrator under the authority of the forty-third section of *The Patent Act of 1872*, do hereby solemnly swear (or affirm, as the case may be), that I will well and truly perform the duty of such arbitrator on the interfering applications of (C.D. and E.F.) submitted to me."

Powers of arbitrators to summon and swear witnesses.

4. The arbitrators, or any one of them, after having been so sworn, shall have the power of summoning before them any party or witness, and of requiring him to give evidence on oath, orally or in writing (or on solemn affirmation, if the person be entitled to affirm in civil matters), and to produce such documents and things as such arbitrators deem requisite to the full investigation of the matters into which they are appointed to examine, and shall then have the same power to enforce the attendance of such witnesses, and to compel them to give evidence, as is vested in any court of law in civil cases, in the Province in which the arbitration is to be had : and any wilfully false statement made by any such witness on oath or solemn affirmation, shall be deemed to be wilful and corrupt perjury : but no such party or witness shall be compelled to answer any question, by his answer to which he might render himself liable to a criminal prosecution.

Wilful false evidence to be perjury.

As to fees to arbitrators, and by whom payable.

5. The fees for the services of arbitrators shall be a matter of agreement between the said arbitrators and the parties, and shall be paid by the parties naming them, respectively, except those of the arbitrator or arbitrators when named by the Commissioner of Patents, which shall be paid by the applicants jointly.

Documents to be open to inspection.

44. All specifications, drawings, models, disclaimers, judgments and other papers, except *creats*, shall be open to the inspection of the public at the Patent Office, under such regulations as may be adopted in that behalf.

As to clerical errors.

45. Clerical errors happening in the framing or copying of any instrument of the Patent Office, shall not be construed as invalidating the same, but when discovered they may be corrected under the authority of the Commissioner.

Destroyed patent may be replaced.

46. In case any patent be destroyed or lost, others of the like tenor, date, and effect may be issued in lieu thereof, on the party paying the fees hereinbefore prescribed for office copies of documents.

As to use of patented invention in foreign vessels.

47. No patent shall extend to prevent the use of any invention in any foreign ship or vessel, where such invention is not so used for the manufacture of any goods to be vended within or exported from Canada.

48. Every person who before the issuing of a patent has purchased, constructed, or acquired any invention for which a patent has been obtained under this Act, shall have the right of using and vending to others, the specific article, machine, manufacture or composition of matter patented, so purchased, constructed or acquired before the issue of the patent therefor, without being liable to the patentee or his representatives for so doing: but the patent shall not be held invalid as regards other persons by reason of such purchase, construction or acquisition, or use of the invention by the person first aforesaid, or by those to whom he may have sold the same, unless the same was purchased, constructed or acquired or used for a longer period than one year before the application for a patent therefor,—which circumstance would then have the effect of making the invention one having become public and in public use.

Patent not to affect a previous purchaser of the invention.

Proviso: As to other persons.

49. Every patentee under this Act, shall stamp or engrave on each patented article, sold or offered for sale by him, the year of the date of patent applying to such article, thus:—"Patented 1872,"—or as the case may be; and any such patentee selling or offering for sale any such patented article not so marked, shall be liable to the punishment of a fine not to exceed one hundred dollars, and, in default of the payment of such fine, to imprisonment not to exceed two months.

Patented articles to be marked as such.

Penalty for default.

50. Whosoever writes, paints, prints, moulds, casts, carves, engraves, stamps or otherwise marks upon anything made or sold by him, and for the sole making or selling of which he is not the patentee, the name or any imitation of the name of any patentee for the sole making or selling of such thing without the consent of such patentee—or without the consent of the patentee, writes, paints, prints, moulds, casts, carves, engraves, stamps or otherwise marks upon anything not purchased from the patentee, the words, "Patent" "Letters Patent," "Queen's Patent," "Patented," or any word or words of like import, with the intent of counterfeiting or imitating the stamp, mark, or device of the patentee, or of deceiving the public and inducing them to believe that the thing in question was made or sold by or with the consent of the patentee, or whosoever puts to sale as patented, any article not patented in Canada, for the purpose of deceiving the public,—shall be deemed guilty of misdemeanor, and shall on conviction be punished therefor by fine, or by imprisonment, or both, in the discretion of the Court, before which the conviction shall be had; but the fine shall not exceed two hundred dollars, nor shall the imprisonment exceed three months.

Falsely marking any thing as patented, to be a misdemeanor.

Punishment.

51. Any person wilfully making or causing to be made any false entry in any register or book, or any false or altered copy of any document relating to the purposes of this Act, or who shall produce or tender any such false or altered document, knowing the same to be such, shall be guilty of a misdemeanor, and shall be punished by fine and imprisonment accordingly.

Making false entry or copy in matters subject to this Act to be a misdemeanor.

Inconsistent
enactments
repealed.

52. Chapter thirty-four of the Consolidated Statutes of the late Province of Canada, respecting Patents for Inventions,—Chapter one hundred and seventeen of the Revised Statutes of Nova Scotia (third series),—Chapter one hundred and eighteen of the Revised Statutes of New Brunswick, and "*The Patents Ordinance, 1867*," of British Columbia, "*The Patent Act of 1869*,"—and any Act amending any of the said Acts or Laws, or any other Act relating to Patents, are hereby repealed, in so far as they or any of them may be inconsistent with this Act, or make any provision in any matter provided for by this Act, except only as respects all rights acquired and penalties or liabilities incurred under the said laws or any of them, before the coming into force of this Act, as to which they shall remain in force, and nothing in this Act contained shall affect any suit pending in any court of law or equity at the time of the coming into force of this Act.

Exception.*

Short title.

53. In citing this Act it shall be sufficient to call it "*The Patent Act of 1872*."

Commence-
ment of Act.

54. This Act shall commence and take effect on the first day of September, 1872.

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